

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NETLIST, INC,)	
)	
Plaintiff,)	
)	No. 2:22-cv-203-JRG
vs.)	
)	JURY TRIAL DEMANDED
MICRON TECHNOLOGY, INC.; MICRON)	
SEMICONDUCTOR PRODUCTS, INC.;)	
MICRON TECHNOLOGY TEXAS LLC,)	
)	
Defendants.)	
_____)	

**JOINT MOTION TO AMEND
THE DOCKET CONTROL ORDER**

Plaintiff Netlist, Inc. (“Netlist”) and Defendants Micron Technology, Inc., Micron Semiconductor Products, Inc., and Micron Technology Texas LLC (collectively “Micron”) (collectively “the Parties”) respectfully file this Joint Motion to Amend the Docket Control Order (Dkt. Nos. 43; 66; 107).

The Parties respectfully request that the Court amend the deadlines as proposed below:

Current Deadline	Amended Deadline	Event
January 22, 2024	No change	* Jury Selection – 9:00 a.m. in Marshall, Texas
December 26, 2023	No change	* If a juror questionnaire is to be used, an editable (in Microsoft Word format) questionnaire shall be jointly submitted to the Deputy Clerk in Charge by this date. ¹
December 20, 2023	No change	* Pretrial Conference – 9:00 am in Marshall, Texas before Judge Roy Payne

December 11, 2023	No change	*Notify Court of Agreements Reached During Meet and Confer The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
December 11, 2023	No change	*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions <i>in Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
December 4, 2023	No change	*File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e- mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov .
November 27, 2023	No change	File Motions <i>in Limine</i> The parties shall limit their motions <i>in limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
November 27, 2023	No change	Serve Objections to Rebuttal Pretrial Disclosures
November 20, 2023	No change	Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
November 6, 2023	No change	Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof

October 30, 2023	November 8, 2023	<p>*Response to Dispositive Motions (including <i>Daubert</i> Motions).</p> <p>Responses to dispositive motions that were filed <u>prior</u> to the dispositive motion deadline, including <i>Daubert</i> Motions, shall be due in accordance with Local Rule CV-7(e), not to exceed the deadline as set forth in this Docket Control Order.² Motions for Summary Judgment shall comply with Local Rule CV-56.</p>
October 16, 2023	October 25, 2023	<p>*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)</p> <p>No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.</p>
October 16, 2023	October 25, 2023	<p>*File Dispositive Motions</p> <p>No dispositive motion may be filed after this date without leave of the Court.</p> <p>Motions shall comply with Local Rule CV-56 and Local Rule CV-7. <u>Motions to extend page limits will only be granted in exceptional circumstances. Exceptional circumstances require more than agreement among the parties.</u></p>
October 10, 2023	October 23, 2023	Deadline to Complete Expert Discovery
September 25, 2023	October 10, 2023	Serve Disclosures for Rebuttal Expert Witnesses
September 5, 2023	September 20, 2023 (This does not extend or otherwise affect the original deadline to serve written discovery and subpoena requests)	Deadline to Complete Fact Discovery and File Motions to Compel Discovery
September 5, 2023	September 20, 2023	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof

The Parties understand that three of the deadlines that they request the Court amend require a showing of good cause. Specifically, the deadlines for filing Dispositive Motions, Motions to Strike or *Daubert* Motions, and Responses to Motions.

Good cause exists to move these deadlines. At least one Netlist expert witness has a travel conflict with the currently-set schedule. Both parties have claim construction deadlines coming due in a separate case, with opening briefs due on August 24, 2023. Further, Netlist has a PTAB hearing on IPRs on two of the patents-in-suit (IPR2022-00996; IPR2022-00999) on September 11. The parties are currently scheduling fact witness depositions, which has been made more difficult due to travel schedules and the intervening holiday on September 4, 2023.

In addition, Netlist's lead counsel has another trial starting on October 2, 2023. The requested extension to the current deadlines will allow lead counsel adequate time to take the depositions of Micron's expert witnesses.

These proposed extensions to fact and expert discovery require the remaining deadlines to also be adjusted. The parties anticipate at least some motions to strike expert testimony and dispositive motions will need to reference deposition testimony of experts who would not be deposed before the current October 16, 2023 deadline for dispositive motions and motions to strike.

Moreover, these proposed extensions do not impact the date on which the Court will receive the parties' Motion *in Limine*, Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions *in Limine*, Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations. The parties' proposed deadlines also allow for the dispositive motions and motion to strike briefing to be complete four weeks prior to the currently set pre-trial conference.

No other Amendments to the Docket Control Order are requested at this time.

Dated: August 11, 2023

Respectfully submitted,

/s/ Jason Sheasby

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***Attorneys for Defendants Micron Technology,
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was filed electronically in compliance with Local Rule CV-5 on August 11, 2023. As of this date, all counsel of record have consented to electronic service and are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3)(A).

/s/ Yanan Zhao

CERTIFICATE OF CONFERENCE

Pursuant to Local Rules CV-7(h) and (i), counsel for the parties met and conferred via email on the issues raised in this joint motion.

/s/ Yanan Zhao